

Chapter 28

Firemen's Civil Service Commission

17-28-1 County Fire Civil Service Council.

- (1) There is created in each of the counties of this state having and maintaining a regularly organized fire department in which there are regularly employed four or more paid firefighters, a County Fire Civil Service Council consisting of three members to be appointed by the county executive.
- (2) Each member shall serve for a term of three years except that the county executive shall appoint the original council members as follows:
 - (a) one member for a period of one year;
 - (b) one member for a period of two years; and
 - (c) one member for a period of three years.

Amended by Chapter 158, 2002 General Session

17-28-2 Vacancies -- Compensation -- Removal from office.

- (1) Any vacancy occurring on the County Fire Civil Service Council shall be filled by appointment by the county executive for the unexpired term.
- (2) Not more than two members of any council shall at any one time be affiliated with or a member of the same political party.
- (3) A member of the council may not hold, during the term of his office, any other public office or be a candidate for any other public office.
- (4) Each council member shall receive \$50 for each meeting of the council attended by him. The county legislative body may raise the compensation of council members as it considers appropriate. This compensation and allowance shall be a charge against the county and paid monthly.
- (5) In case of misconduct, willful neglect, or inability to perform the duties of his office, any council member may be removed from office by the county legislative body upon a majority vote of the body, but the member is entitled to an opportunity to be heard in his own defense.

Amended by Chapter 158, 2002 General Session

17-28-2.4 County Fire Civil Service System rules and policies.

- (1) The executive director shall recommend rules and policies for the County Fire Civil Service System, which shall be subject to approval by the county legislative body.
- (2) The County Fire Civil Service System rules shall provide for recruiting activities, including the recruiting of minorities and women, job-related minimum requirements, selection procedures, certification procedures, appointments, probationary periods, promotion, position classification, recordkeeping, reductions in force, grievances and complaints, disciplinary action, work hours, holidays, and other necessary and proper requirements not inconsistent with this chapter.
- (3) The executive director shall publish or cause to be published these rules and policies in a manual form, to be updated regularly and made available to fire department employees.

Enacted by Chapter 115, 1992 General Session

17-28-2.6 Merit principles.

The County Fire Civil Service System shall be established and administered in a manner that will provide for the effective implementation of the following merit principles:

- (1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
- (2) provision of equitable and adequate job classification and compensation systems, including pay and benefits programs;
- (3) training of employees as needed to assure high-quality performance;
- (4) retention of employees on the basis of the adequacy of their performance and separation of employees whose inadequate performance cannot be corrected;
- (5) fair treatment of applicants and employees in all aspects of personal administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;
- (6) provision of information to employees regarding their political rights and prohibited practices under the Hatch Act; and
- (7) provision of a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Amended by Chapter 73, 2001 General Session

17-28-3 Organization of council -- Accommodations.

- (1) The County Fire Civil Service Council shall select one of its members as chair.
- (2) The county executive shall assign a qualified employee of the county to act as secretary to the council and a qualified attorney to act as legal counsel to the council, each of which shall be acceptable to the council and shall act and serve without additional compensation.
- (3) The county executive shall provide suitable accommodations, equipment, and necessary funds to enable the council of its county to properly conduct its business.

Amended by Chapter 158, 2002 General Session

17-28-4 Duties of secretary.

The secretary of the County Fire Civil Service Council shall keep a record of all its meetings, work, and official acts, and shall perform other service as required by the council. The secretary shall have custody of the council's books and records.

Amended by Chapter 115, 1992 General Session

17-28-5 Appointment of county fire department personnel -- Volunteers.

- (1)
 - (a) Except for the chief and deputy chief of a county fire department, all firefighter positions in county fire departments shall be filled by persons appointed from a certified county fire civil service register.
 - (b) County fire civil service registers for employment and promotion shall be prepared by the County Fire Civil Service executive director according to the requirements of this chapter and civil service rules.
- (2)
 - (a) The chief and the deputy chief of any county fire department may be appointed from either the certified county fire civil service register or from qualified applicants outside of the county civil service system.

- (b) The positions of chief and deputy chief are exempt from civil service status.
 - (c) A chief or deputy chief who is appointed from the certified county fire civil service register shall be returned to the civil service status that he held before his appointment after his appointment expires or terminates.
- (3)
- (a) All persons employed as firefighters, emergency medical technicians, or a combination of firefighter and emergency medical technician, shall be subject to the provisions of this chapter and shall be members of the County Fire Civil Service System.
 - (b) Other fire department employees who do not provide firefighter services are not considered subject to this chapter and shall be covered by the countywide merit system.
- (4)
- (a) A volunteer firefighter or paid-call firefighter is not subject to this chapter and is not a merit employee subject to the County Fire Civil Service System.
 - (b)
 - (i) Except as provided in Subsection (4)(b)(ii), a volunteer or paid-call firefighter may not work more than 1,040 hours per calendar year.
 - (ii) Notwithstanding Subsection (4)(b)(i), a wildland firefighter may work more than 1,040 hours per calendar year if approved by the county legislative body.
 - (iii) For purposes of this Subsection (4)(b), "wildland firefighter" means a seasonally employed firefighter who does not receive the same employment benefits as a full-time employee and who is hired to suppress wildland fires in areas outside of inhabited, urban areas.

Amended by Chapter 170, 1997 General Session

17-28-6 County Fire Civil Service executive director -- Powers and duties.

- (1)
- (a) Within each county subject to this chapter, there is created the office of executive director of County Fire Civil Service, who shall be appointed by the county executive.
 - (b) The executive director shall be a person with proven experience in personnel management and shall be accountable to the county executive for his performance in office.
 - (c) The position of executive director shall be a merit position under Title 17, Chapter 33, County Personnel Management Act, and shall be recruited and selected in the same manner as the holders of other career service merit positions, with the concurrence of the County Fire Civil Service Council.
- (2) The County Fire Civil Service executive director shall:
- (a) exercise, on behalf of the county, executive or administrative duties regarding the management and administration of the County Fire Civil Service System, including the management and administration of examinations, classification of duties, preparation of hiring registers, recommendations regarding civil service regulations and policies, and other duties provided in this chapter;
 - (b) classify persons successfully passing examinations in the order of their ascertained merit and prepare a list of them;
 - (c) make certification of classifications when required;
 - (d) make, publish, and distribute necessary rules relative to examinations, classifications, and certifications as may be proper and desirable in the administration of this chapter;
 - (e) establish and maintain records of employees in the County Fire Civil Service System setting forth as to each employee class, title, pay, status, and other relevant data;

- (f) make necessary and proper reports to the County Fire Civil Service Council, the fire chief, or the county executive;
 - (g) apply and carry out the provisions of this chapter and the policies and rules adopted under it; and
 - (h) perform other lawful acts that may be necessary or desirable to carry out the purposes of this chapter.
- (3) The executive director shall appoint the members of and act as chair to a County Fire Civil Service Advisory Committee which shall assist the executive director in making recommendations to the county executive regarding County Fire Civil Service System rules and policies.

Amended by Chapter 158, 2002 General Session

17-28-7 Examinations.

- (1) A person may not be appointed to any civil service position as a firefighter in any fire department subject to the provisions of this chapter until he has successfully passed an examination and been certified as eligible for consideration by the County Fire Civil Service executive director, except that any honorably discharged veteran of the United States military service shall receive preferential employment consideration for entry into the County Fire Civil Service System.
- (2) All examinations shall be public, competitive, and free and fairly test the ability of persons to discharge the duties of the position.

Amended by Chapter 115, 1992 General Session

17-28-8 Eligible appointees to fire department.

The fire chief of each fire department of counties subject to the provisions of this chapter shall, subject to the rules of the County Fire Civil Service Council, appoint from the certified county fire civil service register, all persons necessary to fill all firefighter civil service positions in the county fire department.

Amended by Chapter 115, 1992 General Session

17-28-9 Certification of eligible appointees -- Probationary period.

- (1) The fire chief of each county fire department shall notify the County Fire Civil Service executive director of all positions to be filled in his department when the need arises. The County Fire Civil Service executive director shall then, as soon as possible, certify from the certified county fire civil service register to the head of the fire department the appropriate number of persons, consistent with adopted rules.
- (2) Appointments from the certified register shall be placed on probation under conditions and for a period as prescribed by County Fire Civil Service Council rules.

Amended by Chapter 115, 1992 General Session

17-28-10 Vacancies in civil service positions.

Any vacancy occurring in any county fire civil service position in any county fire department subject to this chapter shall be filled by an employee of the department having a lesser, equal, or superior position than that in which the vacancy occurs if that employee submits himself to

examination for the position, is found qualified, and is certified by the County Fire Civil Service executive director as provided in this chapter.

Amended by Chapter 115, 1992 General Session

17-28-11 Temporary work -- Term or period.

- (1) Subject to Subsection (2), the head of any county fire department coming within the provisions of this act may with the advice and consent of the county legislative body, appoint to any position or place of employment in the fire department, any person for temporary work without making the appointment from the certified civil service list.
- (2) An appointment described in Subsection (1) may not be longer than one month in the aggregate in the same calendar year.

Amended by Chapter 297, 2011 General Session

17-28-12 Removal from office and disciplinary action -- Appeals -- Hearing and determination -- Findings.

- (1) Any person holding a position under this chapter may be removed from office or employment, reduced in rank or grade, or otherwise disciplined by the fire chief for misconduct, incompetency, failure to perform the duties of his employment or to properly observe the rules of the office or department in which he is employed, or for other cause, as set out in County Fire Civil Service Council rules.
- (2) Any such disciplinary action is subject to appeal in all cases by the aggrieved party to the County Fire Civil Service Council in the manner established by rule. After an appeal is filed the council shall, as soon as practicable, hear and determine the matter.
- (3) If it determines that it is in the best interest of the county, the county legislative body may appoint an administrative law judge, trained and experienced in personnel matters, to initially hear the matter. Upon hearing, the administrative law judge shall make findings of fact and a recommendation to the council. The council may adopt or reject the recommendation of the administrative law judge or request that the judge hold further factual hearings prior to the council's decision.
- (4) The council may then affirm, modify, vacate, or set aside the order for disciplinary action.
- (5) The aggrieved party shall, upon demand, be granted a public hearing, at which he may appear in person or by counsel or both.
- (6) After the hearing, the findings and determination of the County Fire Civil Service Council shall be certified to the head of the county fire department from whose order the appeal is taken. Notice in writing of the determination shall be served upon the person affected.
- (7) The council determination shall be enforced and followed by the head of the fire department until an appeal is taken to the district court by any affected person.

Amended by Chapter 227, 1993 General Session

17-28-13 Appeal to district court.

- (1) Any person aggrieved by a determination of the County Fire Civil Service Council may, within 30 days after notice of the council's ruling, institute an action in the district court of the county or in the county of the aggrieved person's residence, against the County Fire Civil Service Council in its official capacity, setting out his grievance and his right to complain. In its answer, the council may set out any matter in justification.

(2) The court shall determine the issues of both questions of law and fact and may affirm, set aside, or modify the council ruling.

Amended by Chapter 115, 1992 General Session

17-28-14 Reports by executive director.

Each County Fire Civil Service executive director shall, each December, make an annual report to the county executive and the county legislative body and shall make other reports as required by the county executive regarding the activities of the County Fire Civil Service Council and System.

Amended by Chapter 158, 2002 General Session